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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VALERIE THAMES, an individual,  
CHRISTOPHER SMITH, a minor, by and  
through his Guardian ad Litem, AISHA  
ROACH,

Plaintiffs,

vs.

UNITED STATES OF AMERICA; SAN  
FRANCISCO VETERANS  
ADMINISTRATION MEDICAL CENTER,  
DOES 1 through 50, inclusive,

Defendants.

No. C 08-2617 SC

~~[PROPOSED]~~ ORDER ON PETITION FOR  
ORDER APPROVING (1) COMPROMISE  
OF DISPUTED CLAIM/PENDING ACTION  
OF MINOR AND A PERSON WITH A  
DISABILITY, (2) ALLOCATION OF ASSETS  
BETWEEN MINOR AND ADULT WITH A  
DISABILITY, (3) PAYMENT OF ATTORNEY  
FEES AND LITIGATION COSTS, AND (4)  
PAYMENT OF BALANCE OF SETTLEMENT  
TO (A) GUARDIANSHIP OF THE ESTATE  
OF MINOR AND (B) SPECIAL NEEDS  
TRUST FOR ADULT WITH DISABILITY

The verified Petition of Aisha Roach, Guardian ad Litem of minor plaintiff,  
CHRISTOPHER SMITH, and VALERIE THAMES, adult plaintiff, (hereinafter "Petitioner"  
and/or "Plaintiffs") for an Order Approving Compromise with Defendants United States of  
America (hereinafter "defendants"), that money be paid to the Guardianship Estate of  
CHRISTOPHER SMITH and to the VALERIE THAMES Special Needs Trust, and for  
Allowance of Attorneys Fees and Costs, came on for hearing this date, before the above-  
entitled Court. GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED:

1           1. The claims of Plaintiffs, including the Minor CHRISTOPHER SMITH shall be  
 2           compromised, settled, apportioned, and attorney's fees and costs paid in the amounts as  
 3           set forth in the Petition and as hereinafter stated. The Court finds that Petitioner has made  
 4           a careful and diligent inquiry and investigation related to the claims made and the  
 5           damages suffered. The Court is further satisfied that the Plaintiffs/Petitioner fully  
 6           understand that with the approval of the compromise herein, the minor and adult plaintiff  
 7           will be forever barred and prevented seeking any further recovery or compensation from  
 8           the Defendants.

10           2. The compromise being approved, upon the execution of the terms of the  
 11           compromise, Defendants shall be fully and forever released and discharged of and from all  
 12           claims, charges and demands arising from the facts alleged in the Complaint on file herein.  
 13           Petitioner and Plaintiff are hereby authorized to execute Stipulated Compromises,  
 14           Releases and any other documents necessary to effectuate the settlement.

16           3. Said settlement and compromise provides for the payment of Five Hundred  
 17           Thousand Dollars (\$500,000). The Court finds this compromise and settlement and the  
 18           allocation provided herein to be fair, reasonable, and in the best interests of the minor and  
 19           the adult plaintiff. Furthermore, the allocation and distribution set forth herein is consistent  
 20           with the law of the State of California.

22           4. The settlement proceeds shall be apportioned as follows:

<b>GROSS RECOVERY</b>	<b>\$500,000.00</b>
Minor Christopher Smith	\$250,000. 00
Valerie Thames	\$250,000.00
Costs allocated to CHRISTOPHER SMITH	\$10,358.16
Costs allocated to VALERIE THAMES	\$10,358.16
Attorneys Fees for CHRISTOPHER SMITH	\$59,910.46
Attorneys Fees for VALERIE THAMES	\$59,910.46

27           5. That of the Five Hundred Thousand Dollars (\$500,000.00) being paid in  
 28           settlement of the Plaintiffs' claims, the sum of \$119,820.92 be paid to J Niley Dorit, Esq.,

1 attorney for the Plaintiffs, as attorney's fees for the claim, a sum which is within the  
2 provisions of Federal law under 28 USC Sec. 2678; the sum of \$20,716.32 be paid to J  
3 Niley Dorit, Esq. as reimbursement of costs incurred herein; and the sum of \$15,000 be  
4 held in reserve in the State Bar registered Attorney Trust Account maintained by the Dorit  
5 Law Firm for the payment of outstanding expenses. On or before sixty days following the  
6 receipt of the settlement funds, half of the balance of said reserve funds shall be paid to  
7 the trustee of the Guardianship Estate of Christopher Smith and half shall be paid into the  
8 Valerie Thames Special Needs Trust.  
9

10 6. The facts set forth in the petition are true and it is in the best interests of  
11 CHRISTOPHER SMITH that the net proceeds of the settlement in the above-captioned  
12 proceedings be paid to the Guardianship Estate of CHRISTOPHER SMITH; the net proceeds  
13 for VALERIE THAMES of the settlement in the above captioned proceedings be paid to the  
14 VALERIE THAMES SPECIAL NEEDS TRUST. All of said funds shall be payable upon the  
15 approval of the Guardianship Estate and Special Needs Trust by the Superior Court of the  
16 State of California, County of San Francisco.  
17

18 7. None of the proceeds of the settlement shall be considered to have been received  
19 by, or available to, or to have come into the possession of VALERIE THAMES for purposes  
20 of her qualification for programs of public benefits.  
21

22 8. Notice has been provided to the State Department of Health Services, State  
23 Department of Mental Health, and State Department of Developmental Services. All  
24 statutory liens in favor of the State Department of Health Services, State Department of  
25 Mental Health, State Department of Developmental Services, and any county or city in the  
26 state shall first be satisfied prior to the payment of settlement proceeds to the VALERIE  
27 THAMES SPECIAL NEEDS TRUST.  
28

1 9. All monies payable to CHRISTOPHER SMITH pursuant to the settlement in this  
2 matter shall be paid to the trustee of the Guardianship Estate of minor CHRISTOPHER  
3 SMITH to be held, administered and distributed for the benefit of CHRISTOPHER SMITH  
4 under the terms of said Guardianship.

5 10. It is further Ordered that Petitioner is authorized to settle this claim on behalf of  
6 the Minor and that the Petitioner receives and negotiates funds as set forth herein, and  
7 execute a full release and dismissal against all defendants. The \$500,000.00 settlement  
8 shall be paid as set forth in the Stipulation for Compromise Settlement and Releases upon  
9 the Court's approval of this Petition and the Stipulation for Compromise Settlement and  
10 Releases.  
11

12 The Court thus hereby makes its order approving the settlement and compromise  
13 and for such other and further Order as the Court may deem proper.

14 DATE: June 12, 2009

15 Hon. Samuel Conti

